IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1163 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20.1.2004 in W.P. NO :231 OF2004 on the file of the High Court.)

Between:

D.R. Granites, D.No. 15-3326, Kajur Road, Rajeev Colony, Chittoor, rep by its D. Hari,S/o. D. Anjaneyulu Naidu and D. Madhavan, S/o. Anjaneyulu Naidu, rep by their General Power of Attorney S.R. Pratap Reddy, S/o.LateS.MuniReddy,50yrs.R/o. Chittoor

..... APPELLANT

AND

1 The Government of Andra Praddesh, Industries and Commerce (M.II) Department Secretariat, Hyderabad rep. by the Principal Secretary to Government and Commissioner for Industrial Promotion.
2 The Director of Mines and Geology, Hyderabad.
3 The Assistant Director of Mines and Geology Chittoor
4 Sri Sai Balaji Granites rep by its Proprietor, T. Balaji, S/o. Ramachandra Naidu, 4-948, Pensioners Colony, Kajoor Palamaner Road, Chittoor.

.....RESPONDENT(S)

Counsel for the Appellant:MR.O.MANOHER REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR INDUSTRIES & COMMERCE

Counsel for the Respondent No.4: Sri C.V. Mohan Reddy

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Order dismissing appellant's writ petition by judgment of the learned single judge dated 20.1.2004 is under challenge in this appeal. The facts in brief are that appellant was granted a lease for quarrying Granite for a period of 15 years, which was valid till 9.8.2009. Though the original lessee died, his legal heirs were declared as lessees.

On 3.4.2002, the Director of Mines and Geology served a show cause notice upon the appellant calling upon the appellant to show cause within 15 days from the date of receipt of the notice as to why quarry lease be not determined as per A.P. Minor Mineral Concession Rules, 1966, (hereinafter referred to as 'the Rules'). The ground mentioned in the show cause notice was that the appellant had not paid advance dead rent for the year 2002-2003. Appellant submitted his reply on 23.4.2002 informing that part of the amount towards dead rent had been paid and that the remaining amount of Rs.25,000/- will be paid within ten days. The Director of Mines and Geology on 19.8.2003 proceeded to pass an order determining with immediate effect the lease by forfeiting the Security Deposit in Government under Rule 12(5)(h)(xii) of the Rules. The grounds stated in the order were that though the appellant had in reply to the show cause notice stated that part of the amount towards dead rent for the year 2002-2003 had been paid and the remaining amount of Rs.25,000/- will be paid within ten days and, even, as on that day, Assistant Director of Mines and Geology, Chittoor, had reported that there are arrears due from the appellant to the extent of Rs. 13,878/- towards dead rent of 2002-2003 and Rs.15,687/- towards interest upto 31.3.2003, which the appellant had not paid and even the advance

dead rent for the year 2003-2004 which had already become due and payable was not paid. On that premise, the Director of Mines and Geology proceeded to determine the lease. Feeling aggrieved, appellant filed revision before the Government and the Government by proceedings dated 12.12.2003 proceeded to dismiss the revision. The Government in the said order also noticed the factum of serving of show cause notice and also of non-payment of advance dead rent for the year 2002-2003. It was also noticed that as on the date when the Director of Mines and Geology passed orders determining the lease, arrears had not been cleared, which fact was also referred to in the show cause notice. The Government, therefore, felt that it was not a case for exercising revisional powers since the order passed by the Director of Mines and Geology determining the lease was proper and justified. In addition to this, the Government also noticed that the original lessee died and after the death of the original lessee, his legal heirs, Sri D. Hari and Sri D.Madhavan, became successors. They in turn had also given General Power of Attorney to Sri S.R. Pratap Reddy and the said G.P.A. Holder in turn had given authorization to some other person to operate the quarry. Thus, the Government noticed that the quarry lease was not under direct operation of the original lessee. It was also observed that earlier also the quarry lease had been determined for non-payment of mineral revenues and non-submission of returns and accounts and on revision, the Government allowed the revision of the appellant through proceedings dated 1.12.2000. But, again, the appellant had become defaulter and therefore the Government by the proceedings dated 12.12.2003 determined the lease, now, after following the due procedure. The submission made on behalf of the appellant before the Government that before filing of the revision all arrears had been cleared did not find favour with the Government and the Government held that delayed payment of dues after receipt of determination proceedings do not deserve any merit.

It was to be further mentioned here that after the revision of the appellant was dismissed on 12.12.2003, the lease in question was granted in favour of the 4th

respondent by proceedings dated 19.12.2003. Questioning the determination of lease and the dismissal of revision as well as the grant of lease in favour of the 4th respondent, appellant filed the writ petition. Learned single judge dismissed the writ petition.

The very same grounds which were urged before the learned single judge were reiterated before us inter alia stating that the basis of the show cause notice came to an end when the appellant cleared the arrears before filing of the revision and the Government took into consideration various other irrelevant factors, which did not form part of the show cause notice and that the order was passed by the Government dismissing the revision for extraneous considerations, inasmuch as within seven days of dismissal of revision, it granted lease in favour of the 4th respondent.

Having considered the submissions made by the learned counsel for the appellant and having gone through the material on record, we do not find any merit in the appeal, inasmuch as the ground on which the show cause notice was issued was very much in existence as on the day when the Director of Mines passed the order impugned in the writ petition determining the lease. Show cause notice was issued on the ground of non-payment of arrears of dead rent for the year 2002-2003. Admittedly, arrears had not been cleared despite the fact that appellant was informed that lease was liable to be determined for non-payment of arrears duly forfeiting the security deposit. Thus, there was no illegality on the part of the Director of Mines and Geology in passing the order impugned in the writ petition. This order was challenged in revision before the Government and in the order passed by the Government, all relevant factors were taken into consideration including the fact that whether the Director of Mines and Geology was justified in passing the order of determination of lease. While examining the legality and validity of the order as also the suggestions made on behalf of the appellant that appellant's case ought to have

been considered sympathetically inasmuch as appellant before filing of revision had paid the amount, the revisional authority, in order to repel those submissions, brought in aid certain facts from the file and held that it was the case of a defaulter, who, on an earlier occasion also defaulted in making payment of mineral revenues and not submitted returns and accounts, due to which, his lease was determined. However, the revision was allowed by the Government on 1.12.2000 and again the appellant had became defaulter. Therefore, even if the appellant had cleared all the arrears before filing the revision, it was not a case to be considered sympathetically since delayed payment of dues after determination of lease will not deserve any merit.

In these circumstances, it cannot be said that the order passed by the revisional authority was based upon any extraneous considerations or taking into consideration certain irrelevant factors.

Even the action of the respondents in granting lease in favour of the 4th respondent cannot be found fault with since the lease of the appellant was already stood determined, much prior to awarding lease in favour of the 4th respondent. Further, the 4th respondent had been operating the quarry lease for the last nine months.

We, therefore, do not find any merit in the appeal and the appeal is accordingly dismissed. No costs.

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DEVINDER GUPTA, CJ

Date: 20th August, 2004

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C.V.RAMULU,J

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To

1. The Principal Secretary to Government and Commissioner for Industrial Promotion, Government of Andhra Pradesh, Industries and Commerce (M.II) Department, Secretariat, Hyderabad .

2 The Director of Mines and Geology, Hyderabad.
3 The Assistant Director of Mines and Geology Chittoor
4 Sri Sai Balaji Granites rep by its Proprietor, T. Balaji, S/o.

Ramachandra Naidu, 4-948, Pensioners Colony, Kajoor

Palamaner Road, Chittoor.

5. Two C.Cs. to Government Pleader for Industries & Comemrce, High Court Buildigns, Hyderabad(OUT).

6. Two C.D. copies